

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

SOVERAIN SOFTWARE LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CDW CORPORATION, NEWEGG	)	Civil Action No. 6:07-CV-00511-LED
INC., REDCATS USA, INC.,	)	
SYSTEMAX INC., ZAPPOS.COM,	)	
INC., REDCATS USA, L.P., THE	)	
SPORTSMAN'S GUIDE, INC., and	)	
TIGERDIRECT, INC.,	)	
	)	
Defendants.	)	
	)	

***Newegg's Proposed Jury Charge Instruction***

With respect to plaintiff Soverain's damages theory that a reasonable royalty in this case may be based in whole or part on defendant Newegg's profits or revenues from sales of products not covered by the asserted patent claims, Newegg requests the following jury charge instruction:

**7.5 Royalties Based on Profits or Revenues from Other Product Sales**

For purposes of your damages calculation, you are to assume that the technology of the asserted patent claims is used by Newegg when it sells other products that are not covered by the patents-in-suit, such as computers and other consumer products.

Where a patented invention is used for convenience or business advantage in selling other products not covered by the patent, royalty damages may not be based on the profits or revenues of those product sales unless the patent owner can demonstrate that the patented invention is of such importance that it created substantial customer demand for those other products.

In other words, unless you find that Newegg's use of the patented shopping cart and session ID technology created substantial demand for the products sold by Newegg, you may not

use Newegg's product sales revenues or profits in determining a reasonable royalty.

Respectfully submitted,

Dated: April 29, 2010

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**Certificate of Service**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being hereby served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on April 29, 2010, or will be served via electronic mail. All other counsel of record will be served via facsimile or first class mail.

/s/ Mark D. Strachan

Mark D. Strachan